

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,
Debtor.

Bankruptcy Case Number 13-53846

Honorable Steven W. Rhodes

Chapter 9

**STIPULATION FOR AN ORDER RESOLVING
EDDIE ADAMS'S MOTION FOR RELIEF FROM THE AUTOMATIC
STAY TO ALLOW STATE COURT AND FEDERAL COURT
ACTIONS TO CONTINUE**

The City of Detroit, Michigan (the "City"), and Eddie Adams (the "Claimant"; and with the City, the "Parties"), by and through their undersigned counsel, stipulate as follows:

WHEREAS, the Claimant asserts that he sustained injuries in an accident that occurred on or about November 14, 2009, and further asserts that the City is liable for these injuries (the "Claim");

WHEREAS, the City asserts that it has insurance coverage for the Claim from Valley Forge Insurance Company (the "Insurance Carrier");

WHEREAS, the Claimant sued the City in Wayne County Circuit Court to assert his Claim, commencing Case Number 11-13755-NO (the "Circuit Court Case"), for which the Insurance Carrier assumed the obligation of defending;

WHEREAS, Claimant obtained a judgment against the City of Detroit in the Circuit Court Case on June 17, 2013 (the "Judgment");

WHEREAS, on or about July 5, 2013, the City appealed the Judgment to the Michigan Court of Appeals, commencing Case Number 317160, captioned *Eddie Adams v City of Detroit, Michigan* (the “State Court Appeal”);

WHEREAS, on July 18, 2013, the City commenced this case under chapter 9 of title 11 of the Bankruptcy Code;

WHEREAS, on August 28, 2013, the Michigan Court of Appeals issued an order staying the State Court Appeal;

WHEREAS, the Insurance Carrier now asserts that the Claim arose in relation to property with respect to which it had not provided insurance coverage, and thus it had no liability to defend or indemnify the City for the Claim;

WHEREAS, on March 18, 2013, the Insurance Carrier sought a declaration to this effect, and thus commenced a declaratory action in the United States District Court, Eastern District of Michigan, Southern Division, captioned *Valley Forge Insurance Company v City of Detroit and Eddie Adams*, Case Number 13-11168 (the “Declaratory Action”; and with the State Court Appeal, the “Actions”);

WHEREAS, on September 3, 2013, the District Court issued an order staying the Declaratory Action;

WHEREAS, on February 12, 2014, Claimant filed claim number 880 in the City’s bankruptcy case;

WHEREAS, Claimant filed a motion for relief from stay to prosecute the Actions (the “Motion,” Doc. No. 7499); and

WHEREAS, the Parties now agree to modify the Automatic Stay to resolve the Actions, so that the extent of the City’s insurance coverage can be determined in the Declaratory Action, the validity of the Judgment can be determined in the State Court Appeal, and the City’s liability after insurance coverage (if any) is exhausted can be treated under the City’s plan of adjustment;

NOW, THEREFORE, the Parties consent to the entry of the order attached hereto as Exhibit 1, resolving the Motion.

Dated: October 2, 2014

/s/ Jacalen J. Garris
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ATTORNEYS FOR THE CITY

EXHIBIT 1

**UNITED STATES BANKRUPTCY COURT
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This matter comes before the Court on (a) the *Motion for Relief from the Automatic Stay to Allow State Court and Federal Court Personal Injury Actions to Continue* (the "Motion," Doc. No. 7499) filed by Eddie Adams (the "Claimant"); and (b) the stipulation ("Stipulation") filed by the Claimant and the City of Detroit (the "City") to resolve the Motion. The Court having reviewed the Motion and the Stipulation, and determining that there is just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is RESOLVED as set forth herein.
2. Claimant is granted relief from the automatic stay for the purpose of proceeding on a claim against the City for injuries he alleges he sustained in an accident that occurred on or about November 14, 2009 (the "Claim").

3. The relief from the automatic stay provided by this Order applies to both the State Court action in the Michigan Court of Appeals, *Eddie Adams v City of Detroit, Michigan*, Case Number 317160 (Wayne County Case Number 11-13755-NO) (the “Appeal”), and the Federal Court declaratory action in the United States District Court, Eastern District of Michigan, Southern Division, *Valley Forge Insurance Company v City of Detroit and Eddie Adams*, Case Number 13-11168 (the “Declaratory Action”).

4. To the extent that the Appeal determines that the Claimant has a valid Claim, then

- a. to the extent that the Declaratory Action determines that Valley Forge Insurance Company (the “Insurance Carrier”) is liable to defend and indemnify the City for part or all of the Claim, the Claimant’s recovery against the City will be limited to the extent of available insurance coverage that the City has from the Insurance Carrier for the Claim (“Coverage”); and
- b. to the extent that the Claim exceeds the City’s Coverage (or, if the Declaratory Action determines that the Insurance Carrier is not at all liable to defend and indemnify the City for the Claim), then the uninsured portion of the Claim will be allowed as a general unsecured claim as an amendment to Claimant’s claim number 880 in the City’s bankruptcy case.

CERTIFICATE OF SERVICE

I, Timothy A. Fusco, hereby certify that the foregoing *Stipulation for an Order Resolving Eddie Adams's Motion for Relief from the Automatic Stay to Allow State Court and Federal Court Actions to Continue* was filed and served via the Court's electronic case filing and noticing system on this second day of October, 2014.

/s/ Timothy A. Fusco